

White Circuit Court
Pink District Attorney
Canary: Defense Attorney

IN THE CIRCUIT COURT OF THE STATE OF OREGON FOR THE COUNTY OF WASHINGTON
EN LA CORTE DE CIRCUITO DEL ESTADO DE OREGON PARA EL CONDADO DE WASHINGTON

THE STATE OF OREGON/EL ESTADO DE OREGON)

Plaintiff/Parte Acusadora)

vs./contra)

Court/Corte No. C982023CR
D.A./Fiscal No. 98-2729a

ELMER EVELIO ALVAREZ- OCHOA)

Defendant/Acusado)

PETITION TO ENTER PLEA OF GUILTY
NO CONTEST AND ORDER ENTERING PLEA
PETICION PARA ASENTAR UNA DECLARACION DE
CULPABLE/NO LO DISPUTO Y ASIEN TO DE LA
DECLARACION. COUNTS 1 + 3

The defendant represents to the Court/El acusado manifiesta ante la Corte:

1. My full true name is: ELMER EVELIO ALVAREZ- OCHOA
and I am also known as: SAME

and I request that all proceedings against me be had in my true name.

Mi nombre completo y verdadero es: _____
también se me conoce como: _____

y estoy solicitando que todos los procesos en mi contra se hagan bajo mi nombre verdadero.

2. I am represented by my lawyer, MICHAEL D. HENRY
Estoy representado por mi abogado, _____

3. I wish to plead GUILTY NO CONTEST to the charge(s) of COUNT-1: DCS COCAINE;
SUBSTANT QUANTITIES; COUNT 3: DCS COCAINE, SUBSTANT QUANTITIES

Deseo declararme CULPABLE/NO LO DISPUTO del (de los) cargo(s) _____
for consideration

4. I told my lawyer all the facts and circumstances known to me about the charges against me. I believe that my lawyer is fully informed on all such matters. My lawyer has counseled and advised me on the nature of each charge; on any and all lesser included charges; and on all possible defenses that I might have in this case. I have further advised my lawyer of all of my adult and juvenile felony and misdemeanor convictions and/or adjudications.

Yo le informé a mi abogado todo lo que yo sé acerca de los hechos y circunstancias del(de los) cargo(s) en mi contra. Yo considero que mi abogado está completamente informado de todos esos asuntos. Mi abogado me ha aconsejado e informado sobre la naturaleza de cada uno de los cargos y los cargos menores incluidos y sobre todas las posibles defensas que yo pudiera tener en este caso. Además le informé a mi abogado acerca de todas mis condenas previas de delitos mayores, menores y/o sentencias, como adulto y menor de edad.

5. I understand that I may plead Not Guilty to any offense charged against me. If I choose to plead Not Guilt the Constitution guarantees me:

Entiendo que me puedo declarar NO CULPABLE de cualquier delito que se me imputa Si yo decido declararme No Culpable la Constitución me garantiza:

(a) the right to a speedy and public trial by jury

el derecho a un juicio público por jurado, sin demora

(b) the right to see, hear and face in open court all witnesses called to testify against me

el derecho a ver, escuchar y enfren tar en corte abierta todos los testigos citados a testificar en mi contra,

Elmer Evelio Alvarez
Defendant/Acusado

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- (c) the right to use the power and process of the Court to compel the production of any evidence, including the attendance of any witnesses in my favor,
el derecho a usar el poder y procesos de la Corte para obligar la presentación de cualquier evidencia a mi favor incluyendo la presencia de cualquier testigo.
- (d) the right to have the assistance of a lawyer at all stages of the proceedings
el derecho a tener la ayuda de un abogado en todas las etapas del proceso,
- (e) also the right to take the witness stand at my sole option, and the District Attorney cannot force me to testify against myself,
también el derecho a tomar el banquillo de testigos si lo deseo, y el Fiscal no me podrá forzar a testificar en contra de mi mismo,
- (f) if I do not take the witness stand, I understand the jury will be told that this may not be held against me, or will be told nothing, at my option,
si yo no tomo el banquillo de los testigos, entiendo que se le dirá al jurado que eso no lo pueden usar en mi contra o no se les dirá nada, según sea mi deseo.

6. I also understand that if I plead GUILTY/NO CONTEST, the Court may impose the same punishment as if I had pleaded Not Guilty, stood trial and been convicted.

También entiendo que si me declaro CULPABLE/NO LO DISPUTO, la Corte puede imponerme el mismo castigo que si yo me hubiera declarado No Culpable, hubiese tenido un juicio y hubiera sido condenado.

7. I know that the Crime Seriousness Rating for this (these) crime(s) is 8. I believe my Criminal History Scale is a I

Sé que la Clasificación de Seriedad de Delitos de este(estos) delito(s) es _____. Entiendo que la Escala de mis Antecedentes Penales es _____.

8. I know that if I plead GUILTY/NO CONTEST to this charge (these charges), the maximum possible sentence is 10/10 years imprisonment with a possible minimum sentence of up to 5/5 years, and/or a fine of \$200,000. I know also that under sentencing guidelines my presumptive sentence is PRISIÓN 18x2. I know however that the Court could depart from that presumptive sentence and impose a greater sentence. I know further that the sentence is up to the Court only and in the event the District Attorney makes any recommendation, the Court is not bound to accept or follow it.

Sé que si me declaro CULPABLE/NO LO DISPUTO de este (estos) cargo(s), la posible pena máxima es de _____ años de prisión con una posible pena mínima hasta de _____ años y/o multa de \$ _____. Yo también sé que bajo las guías de sentencias, mi presunta pena es _____. Sin embargo yo sé que la corte puede salirse de esa presunta pena e imponerme una pena más alta. Además sé que la imposición de la pena es decisión exclusiva de la Corte y en caso de que el Fiscal haga alguna recomendación, la Corte no está obligada a aceptarla o seguirla.

9. I also know that the law provides for a minimum sentence of _____ years for the use or threatened use of a firearm. I understand this may happen in this case _____. If not applicable, check ☒.

También sé que la ley provee que una pena mínima de _____ años debe ser impuesta por el uso o intento de uso de una arma de fuego. Entiendo que esto puede suceder en ese caso _____. Si no es aplicable en este caso, marque _____.

10. I have ☒ have not ☒ been convicted/adjudicated of one or more misdemeanors, felonies and/or Juvenile offenses as follows: _____

Yo he _____ no he _____ sido condenado/sentenciado por uno o más delitos menores, delitos mayores y/o delitos como menor de edad, como sigue: _____

11. I am _____ am not ☒ presently on probation or parole. I understand that pleading Guilty in this case may cause revocation of my probation or parole, and this could result in a sentence of _____ months/years in that case. I further understand that if my parole or probation is revoked, any sentence in that case may be consecutive to or in addition to any sentence in this case.

Elmer Eusebio Alvarez
Defendant/Acusado

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Yo estoy _____ no estoy _____ actualmente en Probatoria o en Libertad condicional post-prisión. Entiendo que la declaración de culpable en este caso puede causar que se me revoque mi Probatoria o Libertad condicional y tener como resultado una pena de _____ meses/años por ese caso. Además entiendo que si mi libertad condicional o probatoria es cancelada, cualquier pena en ese caso puede ser consecutiva o adicional a la pena que reciba por este caso.

12. I also know that the law provides for an increase in the maximum sentence described in Paragraph 8 to a maximum of 30 years if I qualify as a dangerous offender. I understand that this may happen in this case _____. If not applicable, check ☒.

También sé que la ley estipula un aumento a la máxima pena descrita en Párrafo 8 a un máximo de 30 años si yo califico como delincuente peligroso. Entiendo que eso puede suceder en este caso _____. Si esto no es aplicable, marque _____.

13. I am 27 years of age. I have gone to school up to and including HONDURAS-HIGH SCHOOL my physical and mental health is presently satisfactory. At this time I am not under the influence of any drugs or intoxicants (nor was I at the time the crime was committed). State any exceptions: NONE

Tengo _____ años de edad. Yo fui a la escuela hasta e incluyendo _____ mi salud física y mental actual es satisfactoria. En este momento no estoy bajo la influencia de ninguna droga o intoxicantes (ni tampoco lo estaba cuando se cometió el delito). Mencione cualquier excepción: _____

14. I declare that no officer or agent of any branch of government (federal, state or local) has made any promise or suggestion of any kind to me, or within my knowledge to anyone else, that I will receive a lighter sentence, or probation, or any other form of leniency if I plead GUILTY/NO CONTEST, except PLEASED GUILTY COTS 1+3, 16 MOS. CONCURRENT SENTENCES, PRISON - GOOD TIME ONLY, CAA, LA, DRUG PCKE

Declaro que ningún oficial o agente del gobierno (federal, estatal o local) me ha hecho alguna promesa o insinuación a mí, o que yo sepa a alguien más, que yo recibiré una sentencia ligera o probatoria o cualquier otra forma de indulgencia, si yo me declaro CULPABLE/ NO LO DISPUTO, a excepción de _____

15. I believe that my lawyer has done all that anyone could do to counsel and assist me. I AM SATISFIED WITH THE ADVICE AND HELP MY LAWYER HAS GIVEN ME. I recognize that if I have been told by my lawyer that I might receive probation or a light sentence, this is merely my lawyer's prediction and is not binding on the Court.

Yo sé que mi abogado(a) ha hecho todo lo posible por aconsejarme y ayudarme. ESTOY SATISFECHO(A) CON EL CONSEJO Y LA AYUDA QUE ME HA DADO. Yo reconozco que si mi abogado(a) me dijo que quizá reciba probatoria o un castigo leve, esto es solamente una predicción de mi abogado(a) y la Corte no está obligada a ello.

16. I plead GUILTY/NO CONTEST and request the Court to accept my plea of GUILTY/NO CONTEST and to have my plea of GUILTY/NO CONTEST entered on the basis of SEE BELOW - ALFORD PLEA

Yo me declaro CULPABLE/NO LO DISPUTO y ruego que la Corte acepte mi declaración de CULPABLE/NO LO DISPUTO y que mi declaración de CULPABLE/NO LO DISPUTO se asiente, basándose en lo siguiente _____

17. I also understand that if I am not a citizen of the United States, conviction of a crime may result, under the laws of the United States, in deportation, exclusion from admission to the United States or denial of naturalization.

También entiendo que si no soy ciudadano de los Estados Unidos, la condena por un delito puede causar, bajo las leyes de los Estados Unidos, deportación, la exclusión de admisión a los Estados Unidos o la negación a la naturalización.

18. I OFFER MY PLEA OF GUILTY/NO CONTEST FREELY AND VOLUNTARILY AND OF MY OWN ACCORD AND WITH FULL UNDERSTANDING OF ALL THE MATTERS SET FORTH IN THE ACCUSATORY INSTRUMENT AND IN THIS PETITION AND IN THE CERTIFICATE OF MY LAWYER WHICH IS ATTACHED TO THIS PETITION.

ALFORD PLEA: ENTERING GA TO CHARGES TO AVOID PROBABLE LONGER PRISON TERM IF CONVICTED AT TRIAL.

Elmer Eusebio Alvarez
Defendant/Acusado

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OFREZCO MI DECLARACION DE CULPABLE/NO LO DISPUTO LIBRE Y VOLUNTARIAMENTE, POR MI PROPIA CUENTA Y CON COMPLETO ENTENDIMIENTO DE TODOS LOS ASUNTOS EXPUESTOS EN EL DOCUMENTO ACUSATORIO, EN ESTA PETICION Y EN EL CERTIFICADO DE MI ABOGADO ANEXO A ESTA PETICION.

19. I request the Court to enter my plea of GUILTY/NO CONTEST as set forth in Paragraph 16.

Ruego a la Corte que asiente mi declaración de CULPABLE/NOLO CONTENDERE como quedó expuesta en el Párrafo 16.

Signed by me in the presence of my attorney this 17th day of FEBRUARY, 1999.
Firmada por mí en presencia de mi abogado este día 17 de FEBRUARY, 1999.

Elmer Erelia Alvarez
Defendant/Acusado

My usual residence is /Mi domicilio por lo general es 444 DE AL
444 DE KALB Ave Bend, OR 97701
and my phone number is /y mi número de teléfono es _____
Date of Birth/Fecha de Nacimiento: 02-12-72

Ignacio Escudero
Interpreter/Intérprete

IGNACIO ESCUDERO
STATE OF OREGON CERTIFIED
COURT INTERPRETER
CERTIFICATION No.: 069610 SP 7488
E.E. 2-15-99

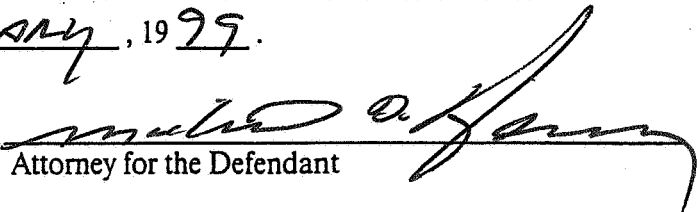
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CERTIFICATE OF COUNSEL

The undersigned, as lawyer and counselor for ELMER EVELIO ALONSO- OCHOA, defendant, hereby certifies:

1. I have read and fully explained to the defendant the allegations contained in the accusatory instrument in this case.
2. To the best of my knowledge and belief the statements, representations, and declarations made by the defendant in the foregoing petition are in all respects accurate and true.
3. I have explained the maximum penalty for each count to the defendant, and consider him/~~her~~ competent to understand the charges against him/~~her~~ and the effect of his/~~her~~ petition to enter a plea of GUILTY/NO CONTEST.
4. The plea of GUILTY/NO CONTEST offered by the defendant in the petition accords with my understanding of the facts he/~~she~~ related to me and is consistent with my advice to the defendant.
5. In my opinion the plea of GUILTY/NO CONTEST as offered by the defendant in the petition is voluntarily and understandingly made. I recommend that the Court accept the plea of GUILTY/NO CONTEST.
6. Having discussed this matter carefully with the defendant, I am satisfied and hereby certify, in my opinion, that he/she is mentally and physically competent; there is no mental or physical condition which would affect his/~~her~~ understanding of these proceedings; further, I state that I have no reason to believe that he/~~she~~ is presently operating under the influence of drugs or intoxicants. (Any exceptions to this should be stated by counsel on the record.)

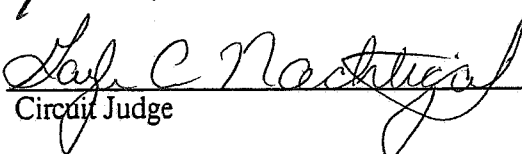
Signed by me in the presence of the above named defendant and after full discussion of the contents of this certificate with the defendant, this 15th day of FEBRUARY, 19 99.


Attorney for the Defendant

ORDER

IT IS ORDERED that the defendant's plea of GUILTY/NO CONTEST be accepted and entered as prayed for in the petition and as recommended in the certificate of his/her lawyer.

Done in open Court this 17 day of FEBRUARY, 19 99.


Circuit Judge

FILED
JUDICIAL DEPARTMENT
WASHINGTON COUNTY
5/21/99
99 MAY -6 AM 9:07

IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF WASHINGTON

STATE OF OREGON,

Plaintiff,

v.

ELMER EVELIO ALVAREZ-OCHOA,

Defendant

Case No. C982023CR (DA 98-2729A)

JUDGMENT UPON PLEAS
OF GUILTY

This matter came before Judge Gayle A. Nachtigal on February 19, 1999 for sentencing. The State of Oregon appeared by Diane McBratney, Senior Deputy District Attorney, and the above named defendant appeared in person, with court appointed counsel, Michael Henry, the Court having determined the defendant to be indigent.

The defendant has been indicted, arraigned, has entered a not guilty plea, withdrawn that plea, and upon guilty plea(s), convicted of the crime(s) of Delivery of a Controlled Substance (cocaine) for consideration involving substantial quantities (Class B Felony, crime seriousness 8,) in Counts 1 and 3, with the State agreeing to treat both as a criminal history I.

It further appears to the Court that more than 48 hours has elapsed since said plea entry, and that now is the proper time to pass sentence and judgment of the Court upon said conviction.

As to each of Counts 1 and 3, it is therefore ORDERED AND ADJUDGED by the Court that defendant be committed to the legal and physical custody of the Corrections Department of the State of Oregon for a period of 16 months, with Count 2 to be served concurrently with Count 1. Pursuant to ORS 137.750 the defendant may NOT be considered by the executing or releasing authority for any form of temporary leave from custody, reduction in sentence, work release, alternative incarceration program or program of

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1 conditional or supervised release authorized by law for which the defendant is otherwise
2 eligible at the time of sentencing, except defendant shall receive credit for good time and
3 credit for time served..

4 It is further ORDERED that the term of post-prison supervision shall be for a period
5 of three (3) year(s). Violation of post-prison supervision shall subject defendant to sanctions
6 or additional imprisonment.

7 The Court recommends that the defendant be deported and not allowed back into the
8 country. If defendant re-enters the United States, legally or illegally, the Court recommends
9 that he be subject to the following post-prison release conditions:

- 10 1. Defendant be prohibited from having any contact whatsoever, direct or indirect, with
11 co-defendants James Nathan Tiedeman, Samuel Antonio Acosta and Jose Raul
Medina;
- 12 2. Defendant be prohibited from consuming or possessing any controlled substances in
13 any form under any circumstances unless lawfully prescribed in writing by a licensed
14 medical person; defendant further be prohibited from presenting any prescription to
15 be filled without first advising supervising officer of the name of the doctor issuing
the prescription, where defendant intends to have the prescription filled and what the
drug is (except in the case of medical emergency, wherein defendant shall advise
probation officer as soon thereafter as possible);
- 16 3. Defendant's person, property, residence or any vehicle he may be in are subject to
17 search at any time by a probation officer having reasonable grounds to believe such
18 search will disclose evidence of a post-prison release violation, without prior notice
or search warrant, to determine if defendant is in compliance with Special Condition
#2; any refusal to consent to said search is a violation of post-prison release;
- 19 4. Defendant shall submit to random body substance testing (at defendant's own
20 expense) at the direction of probation officer having reasonable grounds to believe
21 such search will disclose evidence of a post-prison release violation to determine if
defendant is in compliance with Special Condition #2; any refusal is a violation of
post-prison release;
- 22 5. Defendant shall submit to a drug evaluation and become involved in any mental
23 health treatment/counseling program relating to controlled substance abuse which
24 may be recommended by release officer, and shall remain in said program until
successfully completed or given permission to withdraw.

25 It is further ORDERED that if after release from prison defendant returns to the
26 United States, legally or illegally, he is sentenced to pay to the Clerk of the Court any

1 financial obligations in the Money Judgment section which follows and in the manner
2 specified (which section is hereby made a part of this judgment. Further, if defendant returns
3 to the United States, legally or illegally, it is recommended that all amounts set forth in the
4 Money Judgment section be made a condition of post-prison supervision.

5 It is further ORDERED that Count(s) 2 and 4 through 10 of the accusatory instrument
6 be DISMISSED.

7 **MONEY JUDGMENT**

8 JUDGMENT CREDITOR: State of Oregon JUDGMENT DEBTOR: Defendant

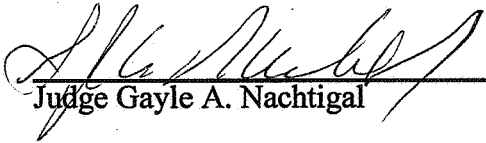
9 \$200.00 Unitary Assessment (\$100 in each of Counts 1 and 3).

10 \$1500.00 Court Appointed Attorney Fees in Count 1.

11 **TOTAL MONEY JUDGMENT: \$1,700.00.**

12 All financial obligations specified in the Money Judgment and included as
13 conditions of post-prison supervision shall be made payable to the State of Oregon and shall
14 be paid through the Clerk of the Court (150 N. First Avenue, Hillsboro, OR 97124).
15 Payments shall be disbursed by the Clerk of the Court as set forth in ORS 137.295.

16 DATED this 3 day of May, 1999.

17
18 
19 Judge Gayle A. Nachtigal

20 Court reporter: Taped

21 Interpreter: Ignacio Escudero

22 cc def atty 4/14/99

23 control #36738123

24 (jlc/pd)